

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE: ) BK. NO: 20-42257-BTR  
)  
FRISCO ACQUISITION, LLC )  
D E B T O R. )

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TRANSCRIPT OF PROCEEDINGS

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BE IT REMEMBERED, that on the 10th day of May, 2022,  
before the HONORABLE BRENDA T. RHOADES, United States  
Bankruptcy Judge at Plano, Texas, the above styled and  
numbered cause came on for hearing, and the following  
constitutes the transcript of such proceedings as hereinafter  
set forth:

1                   P R O C E E D I N G S

2                   COURTROOM DEPUTY: Number 6, page 2, Frisco  
3 Acquisition, LLC. Case number 20-42257. Motion to withdraw  
4 certain claims.

5                   THE COURT: Appearances.

6                   MR. PODAL: Good morning, Your Honor. Richard  
7 Podal on behalf of Wanda Bertoia.

8                   THE COURT: Okay.

9                   MR. PORTELA: Good morning, Your Honor. Jose  
10 Portela and Paul Guelich here on behalf of debtor, Frisco  
11 Acquisition.

12                  THE COURT: Okay.

13                  MR. SCHURR: Good morning, Your Honor.  
14 Patrick Schurr on behalf of Wanda Bertoia.

15                  THE COURT: Okay. All right.

16                  Mr. Schurr, it's your motion. Where are we?

17                  MR. SCHURR: Your Honor, Mr. Podal is going to  
18 argue the motion.

19                  THE COURT: Okay.

20                  Mr. Podal.

21                  MR. PODAL: Thank you, Your Honor.

22                  Your Honor --

23                  THE COURT: Okay. I think -- do you have us  
24 on speaker phone or something? We're having trouble hearing  
25 you now.

1 MR. PODAL: Okay. Let me see if I can move  
2 the phone a little closer. Is that good?

3 THE COURT: No. Do you have us on speaker  
4 phone? You need to pick it up.

5 MR. PODAL: Okay. Hold on.

6 THE COURT: Okay. And while you're doing  
7 that, we have another appearance.

8 MR. LEVICK: Sorry, I'd stepped out, Your  
9 Honor. Larry Levick for Christopher Moser, the Chapter 7  
10 Trustee. And Mr. Moser is in the courtroom, as well.

11 THE COURT: Okay. I see that he is. Thank  
12 you.

13 Okay.

14 MR. PODAL: Okay. Your Honor, I'm off  
15 speaker. Is that --

16 THE COURT: Much better. Thank you.

17 MR. PODAL: Okay. Thank you, Your Honor.

18 Are we ready?

19 THE COURT: You may proceed.

20 MR. PODAL: Thank you.

21 Your Honor, Ms. Bertioia has filed a motion to withdraw  
22 certain claims. And Ms. Bertioia requests leave to withdraw  
23 all of her claims with exception of the fraudulent inducement  
24 claim without prejudice. Her purpose is simple and  
25 straightforward. Ms. Bertioia will claim damages of

1 approximately a million dollars under her fraudulent  
2 inducement claim. If that claim is allowed, it would obviate  
3 the need for any further litigation in this bankruptcy case,  
4 because the assets in the bankruptcy estate are estimated to  
5 be under \$700,000. The advantage to all parties and the  
6 Court are clear. First, simplifying the case would reduce  
7 the cost to all parties and Trustee by eliminating the need  
8 to brief and argue and resolve dispositive motions.  
9 Eliminate the need for further discovery and resolution of  
10 discovery disputes. Eliminate the need to prepare and argue  
11 claim objections to Ms. Bertioia's other claims that would  
12 eliminate the need to prepare and argue claims objections to  
13 WPB's claims.

14 Second, the withdrawal all of Ms. Bertioia's claims and  
15 proceeding with a credit objection hearing on just  
16 Ms. Bertioia's fraudulent inducement claim will create a  
17 substantial judicial economy. It would be unnecessary for  
18 the Court to address and resolve future discovery disputes.  
19 It would be unnecessary for the Court to address and resolve  
20 dispositive motions. It will be unnecessary for the Court to  
21 address claims objections. Ms. Bertioia's withdrawing claims.  
22 It will be unnecessary to address any of WPB's claims.  
23 Finally, if Ms. Bertioia's claim for fraudulent inducement  
24 goes well, the bankruptcy estate could be expeditiously  
25 concluded.

1 In their limited objection to Ms. Bertolia's motion to  
2 withdraw certain of her claims, the debtor does not contest  
3 this approach of withdrawing all of the claims except the  
4 fraudulent inducement claim would simply this litigation,  
5 reduce the expenses for all parties, and create a substantial  
6 judicial economy. The debtor rather asks that the claims  
7 Ms. Bertolia seeks to withdraw be conditioned on those claims  
8 being withdrawn with prejudice. This request is a  
9 transparent attempt by the debtor to gain an advantage in the  
10 Colorado litigation. A dismissal with prejudice of the  
11 claims Ms. Bertolia asks to withdraw would create a collateral  
12 estoppel or res judicata argument in Colorado. We explain  
13 this at page 3 of our reply brief, which is document 310. A  
14 dismissal with prejudice would operate as a final  
15 adjudication not just on claims asserted against Frisco, but  
16 on claims asserted against Frisco's (indecipherable word),  
17 which are the alter ego claims asserted against a party who  
18 controls Frisco, pays all of its attorney fees in all of  
19 these proceedings, and makes all of the decisions, Jagmohan  
20 Dhillon.

21 Simply, Ms. Bertolia asks to withdraw her claims against  
22 Frisco with the exception of her fraudulent inducement claim  
23 without prejudice. Ms. Bertolia intends to proceed the  
24 withdrawn claims against Jagmohan Dhillon as an alter ego in  
25 Colorado, as this Court has authorized her to do, expressly

1 authorized her to do in its order granting partial relief  
2 from stay. Frisco asks this Court to reject Ms. Bertolia's  
3 request to withdraw her claims without prejudice  
4 (indecipherable word) the benefits to the parties of a  
5 streamline procedure, reduce costs, and expedited resolution.  
6 Frisco would also ask to prevent the achieving a substantial  
7 judicial economy for the purpose of gaining a litigation  
8 advantage in Colorado litigation. We respectfully submit  
9 that this is an improper purpose.

10 We would also observe, this is exactly the approach  
11 Frisco Acquisition attempted to pursue in WPB's Chapter 11  
12 bankruptcy in Colorado. We've attached as Exhibit A to our  
13 reply a transcript of that hearing, which is document 323-1.  
14 And I'd like to quote from page 9. Judge Brown in the  
15 Colorado Chapter 11 WPB bankruptcy saw through Frisco's  
16 approach. She understood that, as she put it, voting to the  
17 form of litigation strategy in the Colorado bankruptcy.  
18 Judge Brown stated as follows starting at line 23 on page 9  
19 of document 323-1, And what I see where with Abis and Frisco  
20 is that they are not voting to maximize recovery on your  
21 claim. They are voting to form a litigation strategy. They  
22 are voting to disrupt the debtor's process here so that they  
23 think they will achieve some sort of a benefit in that state  
24 court litigation that the debtor has brought against Abis and  
25 Frisco for their failure to honor the purchase agreement in

1 this case. So that's what they're truly trying to achieve  
2 and the Court sees that. And that is exactly what Frisco  
3 Acquisition is trying to do in this case.

4 To be clear, as we indicated in our reply, Ms. Bertolia  
5 has no interest in reasserting her withdrawn claims in this  
6 bankruptcy proceeding. She will stipulate not to do so. She  
7 cannot accept a condition, however, to withdrawal of her  
8 claims if the withdrawal would be with prejudice, as that  
9 would be used by the alter ego, a living breathing person in  
10 Frisco Acquisition in all of this, Jagmohan Dhillon, to  
11 attempt Ms. Bertolia -- to attempt to preclude Ms. Bertolia  
12 from asserting her alter ego claims in Colorado, which this  
13 Court expressly authorized her to do.

14 So Ms. Bertolia simply asks that the motion to withdraw  
15 her claims, other than her fraudulent inducement claim, would  
16 be granted without prejudice. That all other proceedings,  
17 summary judgment proceeding in this case be stayed and the  
18 Court set a claims objection hearing on Ms. Bertolia's  
19 fraudulent inducement claim at the earliest convenience of  
20 (indecipherable few words).

21 Thank you, Your Honor.

22 THE COURT: All right. Did you have a  
23 response?

24 MR. PORTELA: I do, Your Honor. May I  
25 proceed?

1 THE COURT: You may.

2 MR. PORTELA: Thank you, Your Honor.

3 I think it's important to look at some timing to  
4 understand what's really going on here. Your Honor, before  
5 the Court pending and ripe for ruling is docket number 277.  
6 It would be the motion for summary judgment on Wanda  
7 Bertoia's claims. That was filed 15 days before this, quote,  
8 motion to withdraw, which is really a motion to amend,  
9 obviously, and get rid of claims. What's going on here is  
10 what the Court should be asking itself. Why now so late in  
11 the game, after deadlines have passed, is Wanda Bertoia  
12 asking this Court to just get rid of, ignore all of her other  
13 claims without prejudice and proceed forward with piecemeal  
14 litigation?

15 Your Honor, a little bit of history on this case, to  
16 remind the Court how we got to the current MSJ that's pending  
17 and the amendment deadline. Previously we are now on the  
18 third amended claim of Wanda Bertoia. She has filed original  
19 claim and three amendments. The second amended was actually  
20 teed up for motion for summary judgment previously. What  
21 happened was, they asked to be able to amend again. And,  
22 therefore, dance around getting their claims actually  
23 addressed by this Court and this Court hearing the motion for  
24 summary judgment that was pending. This Court granted mercy  
25 upon them and there's an agreed scheduling order that was



1 entered. And that's docket number 198.

2 That agreed scheduling order provided that they should  
3 amend by November 1st, which they did. That's their third  
4 amended claim. That agreed scheduling order provided that an  
5 objection should be filed to the amended claim, if there was  
6 one, by November 15th. We did that. We complied with that.  
7 The next part of that order says, you have 90 days to conduct  
8 discovery. Again, both parties conducted discovery. You  
9 will recall that there was even a motion to compel hearing,  
10 which we'll talk about in a second, which I think gives us  
11 guidance on how today should be handled. Finally it says,  
12 any dispositive motion be filed on March 16th. Debtor did  
13 that. So we complied with the agreed scheduling order.

14 Only after the motion for summary judgment on their  
15 claims was filed did they now say, okay, we don't really want  
16 you to ever address our claims. We're just going to carve  
17 out the fraudulent inducement claim. But by the way, we're  
18 doing that without prejudice. This is why FRCP 41(a)(2)  
19 exists, Your Honor, because they can't voluntarily dismiss  
20 under that rule. We are past the stage of where they can do  
21 it, because that rule makes it very clear that if an answer  
22 has been filed or if there is a pending motion for summary  
23 judgment, they must get your permission and you can grant on  
24 terms that the Court considers proper. And I will suggest to  
25 the Court that you've already done this dance once. You did

1 it in the middle of a motion to compel hearing.

2           You may recall that we sought discovery on these RICO  
3 claims that may be familiar to the Court. That we had all of  
4 these requests for production based on these RICO claims and  
5 they didn't want to provide any discovery on that. So the  
6 Court said, okay, so you're going to dismiss those claims?  
7 And they said, yes. And the Court said, and you're going to  
8 dismiss them with prejudice? And they said, yes. And that's  
9 the same procedure that should be employed today. There's no  
10 difference other than now we literally have a motion for  
11 summary judgment pending, which is what we're looking for,  
12 Your Honor. We're looking to some finality to these claims.

13           What they want to do is run from this Court, run over  
14 to Colorado, ignore the fact that a bankruptcy is filed, and  
15 pursue the very same claims. And I will suggest, Your Honor,  
16 that 41(a)(2) was created to stop this. And this is from the  
17 Federal Practices & Procedures Civil Section 2363, the  
18 voluntary dismissal section in the fourth edition.

19           The adoption of MRCP 41(a) in 1938 and later amended in  
20 1948 brought needed standardization to federal practice to  
21 prevent the abuses of a plaintiff's right to voluntary  
22 dismissal. Rule 41(a)(1) was intended to eliminate the  
23 annoying of a defendant by being summoned into court in  
24 successive actions, i.e., brief or arguably different claims,  
25 just like this court, and then if no settlement is arrived

1 at, which by the way, Your Honor, we did mediate and no  
2 settlement was reached, requiring him to permit the action to  
3 be dismissed and another one commenced at leisure. And  
4 that's exactly what he's told you they're going to do. You  
5 heard, we want to go pursue these in Colorado. That's what  
6 he told you, they want to go do this litigation in Colorado.  
7 Which brings us full circle to why we're in bankruptcy, Your  
8 Honor.

9 We're in bankruptcy because Frisco simply could not  
10 maintain what was getting to be out of control, hundreds of  
11 thousands of dollars in attorney's fees being spent on this  
12 Colorado litigation where all sorts of people were being sued  
13 and asked to be sued. I think at one point the number of  
14 defendants was up to 14, including Joyce Lindauer, their  
15 former attorneys, whatever. It got out of control. And so  
16 the purpose of the bankruptcy is to get finality. There is  
17 no finality in what they've just proposed to you, Your Honor.  
18 If you listen to what they said it's, well, if we win, then  
19 maybe we'll do something with these other WPB claims.  
20 They're not dismissing those, either. They just want you to  
21 put those on hold. So the definition of piecemeal  
22 litigation, Your Honor. They want to -- and it's just like a  
23 plaintiff that has five different causes of action. They  
24 want you to literally try one and if it doesn't work, let's  
25 try the second one. That's what they're asking you to do

1 with the WPB claims. That's their stay portion of this  
2 motion. And stay the motion for summary judgment on their  
3 claims? Why? Why can't this Court finally put an end, one  
4 way or the other, at least -- perhaps the Court can find a  
5 fact question. I'm not saying you can't. But it's teed up,  
6 Your Honor.

7 We had an agreed -- we have an agreed scheduling order  
8 that they agreed to. Everyone participated in that. We've  
9 all followed it. And now after the MSJ gets filed, oh, we  
10 want to dismiss without prejudice. We think, Your Honor,  
11 that's inappropriate. It violates the purpose of 41(a)(2).  
12 What we ask, Your Honor, is that you proceed to hear the  
13 motion for summary judgment. And we think that -- we believe  
14 that you can grant that and finally put an end to all of  
15 this, which is the purpose and that conserves judicial  
16 resources.

17 There's no conservation of judicial resources if we  
18 proceed on the fraudulent inducement claim. It's all the  
19 same witnesses. It's all the same documents. It's all the  
20 same people. And what they want to do is, well, let me see  
21 if I can win that. And if I can win that one, great, maybe I  
22 don't need these other ones. But they're not telling you  
23 noticeably, hey, we'll dismiss the WPB claims with prejudice.  
24 So they don't even believe in what they're advocating to this  
25 Court that they're going to win that one. So then what we're

1 going to have is a second trial. Guess what, same witnesses.  
2 Same documents. Same stuff. It's the reverse of saving  
3 judicial resources and saving us all of these conflicts.

4 By the way, discovery is closed. Now, they do owe us  
5 Wanda Bertoia's deposition and WPB's. But there's no fights.  
6 That fight's already been had. So this whole, oh, we'll  
7 avoid all of these discovery fights, we've already had the  
8 discovery fights. And that's where you handled this the same  
9 way, in my opinion, that it should be handled today. If you  
10 guys want to dismiss, you need to do it with prejudice. The  
11 debtor does not stand in the way of such a thing. But  
12 dismissing without prejudice doesn't achieve anything. And  
13 it's the opposite of conserving judicial resources. And  
14 ignores the hundreds of thousands of dollars that have been  
15 spent already in this bankruptcy to get these claims teed up  
16 for you to rule on.

17 Thank you, Your Honor.

18 THE COURT: Thank you.

19 All right.

20 MR. PODAL: Your Honor, may I reply?

21 THE COURT: No. No.

22 Given Rule 41, as well as the fact that the bar date  
23 has been set in this case for filing all proofs of claims as  
24 of, when was it, February -- let me look here -- it was  
25 February 16, 2021, the bar date's been set. If you have

1 any -- and those claims were filed. If you're going to  
2 withdraw them, they need to be withdrawn with prejudice. So  
3 the motion is denied. If you wish to withdraw with  
4 prejudice, you do not need to file a motion. You can simply  
5 withdraw those claims with prejudice.

6 MR. PODAL: Your Honor, in that case we're  
7 just going to not withdraw our claims because this case was  
8 filed in Colorado in 2019. The bankruptcy was filed in a  
9 response to this debtor using the exact same arguments they  
10 made in Colorado. It's just backwards to say we're running  
11 to Colorado. We were in Colorado litigating these claims.  
12 They ran to Texas to try to stop us.

13 THE COURT: I understand your respective  
14 positions. I've already ruled. If you wish to dismiss with  
15 prejudice, you may do so. If you don't wish to, you don't  
16 have to do so. But any voluntary dismissal at this point in  
17 time will be with prejudice. So the motion is denied.

18 I'm going to ask counsel to submit an order to the  
19 Court consistent with the Court's ruling denying the motion.  
20 Okay?

21 MR. PORTELA: I will do so, Your Honor.

22 THE COURT: Now, with respect to the motion  
23 for summary judgment that is pending. Is there any -- any  
24 further briefing or anything else that needs to be done, or  
25 is it ready for argument and ruling?

1 MR. PODAL: No, it's not, Your Honor.

2 Your Honor, we have filed -- we have filed  
3 (indecipherable word) response and Rule 56(d) motions because  
4 of the serious heart condition of Arthur Lindquist-Kleissler.  
5 Mr. Sean Martin is in the -- is on the phone, who's  
6 Mr. Linguist-Kleissler's paralegal. My understanding is he's  
7 only been able to speak with him once since his surgery five  
8 or six weeks ago. He was out of the hospital briefly under  
9 home care and he's been re-hospitalized. And we've filed  
10 Rule 56(d) motions in both cases without further responding  
11 to the summary judgment motion, which is why we wanted to do  
12 it this way because a fraudulent inducement claim -- I know  
13 you've ruled and I mean no disrespect, but the fraudulent  
14 inducement claim is totally different. All we have to do is  
15 prove fraud in the inducement and independent damages. We  
16 don't have to get into the issue of the contract and who  
17 didn't perform and why it wasn't performed and all of that.  
18 That is just wrong. So we were trying to expedite the  
19 procedure that would conclude this bankruptcy. We think the  
20 fraud is palpable in a fraudulent inducement claim. We can  
21 go forward on that. It isn't even challenged in the  
22 dispositive motions. Dispositive motion just says, you  
23 didn't get Bankruptcy Court approval in Colorado. We win.  
24 And there are a myriad of factual issues as to why there  
25 non-performance, as the Colorado Court originally found.

1           So, no, the summary judgment motions aren't ripe for  
2 resolution. We have filed 56(d) affidavits and a partial  
3 response just to indicate to the Court the myriad of facts  
4 that exist. And, you know, maybe Mr. Martin could address  
5 Mr. Linguist-Kleissler's condition. I'm not sure any of us  
6 are sure exactly when he is going to be able to participate  
7 in these proceedings. But we're going to need his  
8 participation to move forward.

9           MR. PORTELA: May I respond, Your Honor?

10          THE COURT: Hold on.

11          MR. PORTELA: Yes, Your Honor.

12          THE COURT: All right. You may respond.

13          MR. PORTELA: Yes, Your Honor.

14           I believe the motions for summary judgment are ripe for  
15 ruling. And I will get the Court the docket numbers, because  
16 I think you can conclude this on your own.

17           So the pending motion for summary judgment for Wanda  
18 Bertoia's claim is 277. That was filed on March 16th. The  
19 response and motion -- Rule 56 motion is docket 309 that was  
20 filed on April 13th, 2022. That contains what they call a  
21 preliminary response. We filed our response to the Rule 56  
22 and essentially reply to their response to the MSJ on -- this  
23 is all on Bertoia's claim, it's docket 319 filed on April  
24 27th, 2022. There are appendices that go along with each of  
25 those, I believe, Your Honor, that I'm not citing to the



1 Court. It's ripe for ruling. That's it. We've got the  
2 response to the Rule 56. We've got what they label a  
3 preliminary response. We've got -- if you deny -- obviously  
4 if you deny the 56, there's no question their preliminary  
5 response is their response because that's what the Court told  
6 them to do at our last hearing was filed your response and if  
7 you have a Rule 56, file it at the same time. That's what  
8 you told them to do at the last hearing. Okay? So that's  
9 ripe. You can decide both of those motions, the Rule 56 and  
10 the motion for summary judgment. There's no further briefing  
11 necessary on that.

12 We argue -- and I'm not going to get into it, because  
13 it's not set today. We can, if the Court would like. But we  
14 argue in our response to the Rule 56 and our reply why their  
15 Rule 56 doesn't accomplish anything. Even if they had  
16 Mr. Linguist, it's not going to help them. So the Court can  
17 read those and make the determination. Maybe you want a  
18 hearing. Maybe you don't. You made that very clear last  
19 time that the Court decides when it needs a hearing. But  
20 those are ripe.

21 Now, Your Honor, we have related, albeit it's different  
22 arguments, motions for summary judgment, 279, I believe is  
23 the WPB -- our motion for summary judgment on the WPB claims.  
24 I believe 308 is their Rule 56 and response to the WPB motion  
25 for summary judgment. What I don't have with me, Your Honor,

1 although I think it was filed the same day as the prior  
2 response, is our response to their Rule 56 motion and reply  
3 to the motion for summary judgment. Those were filed on the  
4 same day. In fact, I believe the WPB one was filed first,  
5 because that one is even more blatant on why Mr. Linguist  
6 can't possibly save the day on a contract where in open  
7 court, Mr. Bukler, the other attorney representing WPB  
8 stated, we're no longer going forward with that contract.  
9 The deal has changed. That deal is dead. And the Court  
10 required them to give a new notice because it was a new deal.  
11 And the new deal gets rid of that contract with WPB. It's  
12 very clear, they announce it on the record. And the notice  
13 that the Court required says, new deal. Here's what it is.  
14 That old contract is gone. Mr. Linguist can't fix that.  
15 That's the reality of this. Really what they're asking for  
16 is in their 56s they say, we need our own attorney's  
17 testimony. And you can see, we address that issue of, no,  
18 you've got documents. You've got pleadings. You've got  
19 Court transcripts. That's legitimate, credible evidence.  
20 But what is Mr. Linguist going to get up and say against what  
21 his own co-counsel said, that deal's dead. It's terminated.  
22 Cancelled. Rescinded. Call it what you want. You can't fix  
23 it, Your Honor.

24 So respectfully, I disagree with Mr. Podal. You have  
25 everything you need. Everything is fully briefed at this

1 point on both of those motions for summary judgment and the  
2 Rule 56 motions.

3 THE COURT: Okay. Thank you.

4 We're going to take --

5 MR. PODAL: Your Honor --

6 THE COURT: No, Mr. Podal, just wait, please.

7 The Court is going to set the summary judgment motion  
8 that is docket number 277 and the related motion for summary  
9 judgment, docket number 279, as well as the Rule 56(d)  
10 motions, which is docket number 309 and 308 for hearing.  
11 That hearing will be on June 3rd at 10 a.m.

12 MR. PODAL: Your Honor, hold on just a second.

13 Your Honor, wouldn't the proper procedure to be -- to  
14 have a hearing or to determine the 56(d) motions first --

15 THE COURT: I appreciate you telling the Court  
16 what the proper procedure is. I've ruled. All of those  
17 matters will be set for hearing on June 2nd at 10 a.m.

18 Thank you.

19 MR. PORTELA: June 3rd, Your Honor?

20 THE COURT: 3rd, I'm sorry, June 3rd. Hold  
21 on.

22 Yes, June 3rd.

23 MR. PORTELA: The debtor is available, Your  
24 Honor.

25 THE COURT: Okay.

1 MR. PODAL: Your Honor, yeah, I can be  
2 available on June 3rd.

3 THE COURT: Thank you.

4 All right. We will see you back then. Thank you.

5 MR. PORTELA: Thank you, Your Honor.

6 THE COURT: Parties are excused.

7 MR. SCHURR: Your Honor -- I'm sorry.

8 THE COURT: Oh, yes, Mr. Schurr.

9 MR. SCHURR: Can Mr. Podal appear  
10 telephonically --

11 THE COURT: Certainly.

12 MR. SCHURR: I'd much rather get that out of  
13 the way before --

14 THE COURT: No. That is just fine. He just  
15 needs to contact my courtroom deputy about getting that done.  
16 He can appear telephonically, if he so chooses.

17 MR. SCHURR: I figured I'd ask while we're all  
18 here.

19 THE COURT: Yeah, that's fine.

20 MR. SCHURR: The way I understand it, that  
21 procedure is due within 48 hours or something like that.

22 THE COURT: Well, we've already let Ms. Marzet  
23 know. You all just need to contact her so she can give you  
24 the call in information.

25 MR. SCHURR: Yes, ma'am.

1 THE COURT: All right.

2 MR. PORTELA: Your Honor, can I ask a  
3 procedure question?

4 THE COURT: Yes, sir.

5 MR. PORTELA: So to the extent that we have  
6 attached exhibits to our motion for summary judgment or  
7 reply, do we need to file a separate exhibit list identifying  
8 those very same exhibits that are already before the Court?

9 THE COURT: If they're already attached to the  
10 motion itself, no, because we can reference those and there's  
11 a record copy of those.

12 MR. PORTELA: Perfect.

13 THE COURT: If it's not attached, then I need  
14 to have -- I need you to submit them at the hearing, or I  
15 guess you could file them ahead of time.

16 MR. PORTELA: Thank you, Your Honor. May we  
17 be excused?

18 THE COURT: You may.

19 (End of Proceedings.)

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25

C E R T I F I C A T E

I, CINDY SUMNER, do hereby certify that the foregoing constitutes a full, true, and complete transcription of the proceedings as heretofore set forth in the above-captioned and numbered cause in typewriting before me.

/s/Cindy Sumner

---

CINDY SUMNER, CSR #5832  
Expires 10-31-2022  
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